

SANDLER REIFF

SANDLER REIFF LAMB
ROSENSTEIN & BIRKENSTOCK, P.C.

1025 Vermont Ave NW, Suite 300
Washington, DC 20005
www.sandlerreiff.com
T: 202-479-1111
F: 202-479-1115

July 1, 2016

17044416650
Jeff S. Jordan, Esq.
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington D.C. 20463

Via e-mail: jjordan@fec.gov

Re: MUR 7079

Dear Mr. Jordan:

Pursuant to the attached designations of counsel, this letter responds on behalf of Scott Peters for Congress, Nicholas Femia as its Treasurer, Congressman Scott Peters, Lynn Gorguze, and Gloria Gorguze to allegations against them made in a complaint filed by the Foundation for Accountability and Civic Trust. All of these respondents received notification from the Federal Election Commission about this complaint on or after June 16, 2016.

In short, the complaint alleges that a collaboration among donors to mutually support collectively favored candidates, via contributions of each donor's personal funds directly to each candidate, somehow constitutes the making of contributions "in the name of another" in violation of 52 U.S.C. § 30122. That allegation is absurd on its face.

That statute prohibits reimbursing a so-called "straw donor," either before or after the fact, for a contribution notionally made by that straw donor who is in fact merely passing along someone else's funds. The Commission has confirmed as much not only in its regulations,¹ but in a long series of enforcement actions.² The complaint does not even allege that any contributions made by Congressman Peters, Lynn Gorguze, or Gloria Gorguze, or any contributions received by Scott Peters for Congress, were actually reimbursed by anyone; and in fact, no such reimbursements took place. Consequently, even accepting the factual

¹ 11 C.F.R. § 110.4(b)(2).

² See, e.g., FEC Matters Under Review 6143, 4879, 4876, 4871, & 4796.

representations in the complaint at face value, it is clear that the complaint fails even to state circumstances that would constitute a violation of § 30122.

Furthermore, the troubling and perverse outcomes that would result from adopting the complainant's theories about imposing § 30122 in this context should be obvious. Political candidates and their supporters routinely seek to build coalitions of mutual support between and amongst themselves. Indeed, the healthy functioning of representational democracy depends on precisely this kind of alliance-building and interconnectedness. If the complainant's novel interpretation of § 30122 were to be enforced, when would it be legal for friends and colleagues to support each other's favored candidates? When would it be a crime? The complainant suggests no limiting principle for the open-ended scope of the law that it proposes to apply here, even though adopting that scope would require the Commission to intrude upon relationships like these, among candidates and their supporters nationwide, to somehow referee whether and when, to use the phrasing of the complaint, any such relationships "effectively" result in straw donor violations.

In sum, the complainant's suggestion that these circumstances violate § 30122 is clearly wrong as a matter of law. Worse, however, it's also deeply wrong-headed about the role of coalitions in a democracy and about the proper role of the Federal Election Commission in policing the federal campaign finance laws.

Consequently, based on the utter lack of legal merit of this complaint, it appears it was filed only to incite political consequences. I urge that it be dismissed expeditiously to minimize the risk that November voters will be misled.

Sincerely,



Joseph M. Birkenstock
Counsel for Scott Peters for Congress, Nicholas
Femia, Treasurer; Congressman Scott Peters; Lynn
Gorguze; and Gloria Gorguze

Enc: (4)

Designations of Counsel from:

Scott Peters for Congress, Nicholas Femia, Treasurer; Congressman Scott Peters; Lynn Gorguze;
and Gloria Gorguze